



116

Attorney's Docket No.: 06128-266001

DAC

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Jimmy Tsen et al.
Serial No. : 09/994,439
Filed : November 26, 2001
Title : SHOE

Art Unit : 3728
Examiner : Unknown

Commissioner for Patents
Box DAC
Washington, D.C. 20231

REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47(a)

This is in response to the Decision Refusing Status Under 37 CFR 1.47(a) mailed June 20, 2002. Applicants request reconsideration of the decision refusing status under 37 CFR 1.47(a). The decision specifically held that the declaration was unacceptable under 37 CFR 1.63 or 1.64 as failing to set forth the citizenship of a joint inventor, Jimmy Tsen.

Enclosed now herewith is a Combined Declaration and Power of Attorney that has been executed by the previously non-signing joint inventor, Jimmy Tsen, with indication of his citizenship.

We submit that this declaration is now acceptable under 37 CFR 1.63 or 1.64, and we request that the petition for status under 37 CFR 1.47(a) be granted with respect to the remaining non-signing joint inventors, Jason L. Nevens and Matthew Sumner.

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CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, Washington, D.C. 20231.

Date of Deposit

JUL 16, 2002

Signature

Rita M. Liston

Rita M. Liston

Typed or Printed Name of Person Signing Certificate

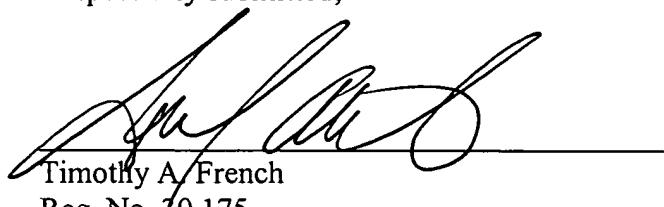
Applicant : Jimmy Tsen et al.
Serial No. : 09/994,439
Filed : November 26, 2001
Page : 2

Attorney's Docket No.: 06128-266001

Please apply any charges or credits due in connection with this request for reconsideration to Deposit Account No. 06-1050.

Respectfully submitted,

Date: Jul 15, 2002



Timothy A. French
Reg. No. 10,175

Fish & Richardson P.C.
225 Franklin Street
Boston, Massachusetts 02110-2804
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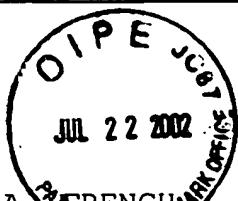
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TIMOTHY A. FRENCH
Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804FISH & RICHARDSON, PC.
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JUN 24 2002

In re Application of
Tsen, et al.Application No. 09/994,439 ✓
Filed: November 26, 2001
Atty. Dkt. No. 06128-266001
Title: SHOEDECISION REFUSING
STATUS UNDER 37 CFR
1.47(a)

This is in response to the petition under 37 CFR filed April 8, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date JMS of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed November 26, 2001 without an executed oath or declaration and naming Jimmy Tsen, Jason L. Nevans, Jonathan Beardsley, and Matthew Sumner as joint inventors. Accordingly, on December 12, 2001, a Notice to File Missing Parts of Nonprovisional Application ("Notice") was mailed, requiring an executed oath or declaration and surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

Petitioner lacks item (2) set forth above.

As to item (2), the declaration submitted herewith is unacceptable as it fails to comply with 37 CFR 1.63 or 1.64 has been presented. Specifically, the declaration fails to set forth the citizenship of Jimmy Tsen.

Any renewed petition must be accompanied by an oath or declaration in compliance with 37 CFR 1.63 or 1.64.

Further correspondence with respect to this matter should be addressed as follows:

Docketed By	Billing Secretary
Due Date:	8-20-02
Deadline:	8-20-02
Initials:	JMM

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Application No. 09/994,439

By mail: Commissioner for Patents
 Box DAC
 Washington, D.C. 20231

By FAX: (703) 308-6916
 Attn.: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
 2201 S. Clark Place
 Arlington, VA

Telephone inquiries regarding this decision should be
directed to Petitions Attorney Alesia M. Brown at (703) 305-
0310.

Alesia M. Brown for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



COMBINED DECLARATION AND POWER OF ATTORNEY

7

below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled SHOE, the specification of which:

is attached hereto.

was filed on November 26, 2001 as Application Serial No. 09/994,439 and was amended on _____.

was described and claimed in PCT International Application No. _____ filed on _____ and as amended under PCT Article 19 on _____.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose all information I know to be material to patentability in accordance with Title 37, Code of Federal Regulations, §1.56.

I hereby claim the benefit under Title 35, United States Code, §119(e)(1) of any United States provisional application(s) listed below:

U.S. Serial No.	Filing Date	Status
60/253,286	November 27, 2000	Pending

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose all information I know to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56(a) which became available between the filing date of the prior application and the national or PCT international filing date of this application:

U.S. Serial No.	Filing Date	Status

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed:

Country	Application No.	Filing Date	Priority Claimed
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No

I hereby appoint the following attorneys and/or agents to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

Timothy A. French, Reg. No. 30,175
David L. Feigenbaum, Reg. No. 30,378

William E. Booth, Reg. No. 28,933
John F. Hayden, Reg. No. 37,640

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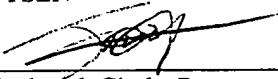
Address all telephone calls to TIMOTHY A. FRENCH at telephone number (617) 542-5070.

Address all correspondence to TIMOTHY A. FRENCH at:

FISH & RICHARDSON P.C.
225 Franklin Street
Boston, Massachusetts 02110-2804

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

Full Name of Inventor: JIMMY TSEN

Inventor's Signature: 

Date: 7/10/2002

Residence Address: 314 Springbrook Circle, Portsmouth, NH 03801

Citizenship: Taiwan

Post Office Address: 314 Springbrook Circle, Portsmouth, NH 03801

Full Name of Inventor: JASON L. NEVENS

Inventor's Signature:

Date:

Residence Address: 4 Lake Bellevue Drive, #107, Bellevue, WA 98005

Citizenship: United States

Post Office Address: 4 Lake Bellevue Drive, #107, Bellevue, WA 98005

Full Name of Inventor: JONATHAN BEARDSLEY

Inventor's Signature:

Date:

Residence Address: 127 Faxon Park Road, Apt. 2, Quincy, MA 02169

Citizenship: United States

Post Office Address: 127 Faxon Park Road, Apt. 2, Quincy, MA 02169

Full Name of Inventor: MATTHEW SUMNER

Inventor's Signature:

Date:

Residence Address: 71 Montclair Avenue, Quincy, MA 02171

Citizenship: United States

Post Office Address: 71 Montclair Avenue, Quincy, MA 02171

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Full Name of Inventor: JIMMY TSEN

Inventor's Signature: _____ Date: _____
Residence Address: 314 Springbrook Circle, Portsmouth, NH 03801
Citizenship: _____
Post Office Address: 314 Springbrook Circle, Portsmouth, NH 03801

Full Name of Inventor: JASON L. NEVENS

Inventor's Signature: _____ Date: _____
Residence Address: 4 Lake Bellevue Drive, #107, Bellevue, WA 98005
Citizenship: United States
Post Office Address: 4 Lake Bellevue Drive, #107, Bellevue, WA 98005

Full Name of Inventor: JONATHAN BEARDSLEY

Inventor's Signature: _____ Date: 3/25/02
Residence Address: 127 Faxon Park Road, Apt. 2, Quincy, MA 02169
Citizenship: United States
Post Office Address: 127 Faxon Park Road, Apt. 2, Quincy, MA 02169

Full Name of Inventor: MATTHEW SUMNER

Inventor's Signature: _____ Date: _____
Residence Address: 71 Montclair Avenue, Quincy, MA 02171
Citizenship: United States
Post Office Address: 71 Montclair Avenue, Quincy, MA 02171